THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.18484 of 2006

Between:

Parvatham Rami Reddy.

.. PETITIONER

and

The Commissioner of Police,
Vijayawada and others.

..
RESPONDENTS

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THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.18484 of 2006

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of respondents 1 to 3 in not investigating the case and in not filing the charge-sheet in Cr.No.458 of 2005 of I Town Police Station, Vijayawada as illegal and arbitrary.

A counter has been filed stating that pursuant to the private complaint filed by the petitioner alleging that A-4 and A-5 committed cognizable offence, the Chief Metropolitan Magistrate, Vijayawada, referred the said complaint under Section 156 (3) Cr.P.C to the 3rd respondent for enquiry and report. Based on which, a case in Cr.No.458 of 2005 was registered for the offences punishable under Sections 420, 384 and 120-B IPC and Section 156(3) Cr.P.C. by the Station House Officer, I Town Police Station, Vijayawada. It is stated that with regard to recovery of money, the 4th respondent filed a suit O.S.No.491 of 2005 on the file of Senior Civil Judge, Vijayawada and the same is pending. It is also stated that for dishonour of the cheque, C.C.No.585 of 2005 is pending on the file of Chief Metropolitan Magistrate, Vijayawada. It is stated that there are civil disputes between the petitioner and respondents 4 and 5. It is also stated that the investigation has been completed and permission has been obtained from the Assistant Commissioner of Police, Vijayawada, on 06-03-2007, for referring private complaint of the petitioner as civil in nature. It is also stated that final report is yet to be filed.

I am of the opinion that whenever the investigation has been completed and final report is prepared to file referring the case as civil in nature or false or mistake of fact, the investigating officer shall file final report immediately before the concerned criminal court, while simultaneously issuing a notice to the complainant, so as to enable the complainant to take appropriate action. Whenever the final report is filed,

the concerned Magistrate need not accept it automatically but he should examine and take appropriate action under Section 159 of Cr.P.C. However, it always open to the complainant to file private complaint once again, as the final report has been prepared and yet to be filed. Further, the 3rd respondent is directed to file the final report, while issuing notice to the petitioner, if not at all filed.

Accordingly, the writ petition is disposed of. There shall be no order as to costs.

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12-06-2007

Prv